

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BONGO BURGER, INC.,

No. C-09-1836 MMC

Plaintiff,

**ORDER DEFERRING RULING ON
MOTION TO AUTHORIZE SERVICE ON
CERTAIN FOREIGN DEFENDANTS;
DENYING AS MOOT ADMINISTRATIVE
MOTION TO CONTINUE; VACATING
HEARING**

v.

TECUMSEH PRODUCTS COMPANY, et al.,

Defendants

Before the Court is plaintiff Bongo Burger, Inc.'s "Motion to Authorize Service on Certain Foreign Defendants Pursuant to Fed. R. Civ. P. 4(f)(3)," filed May 18, 2009, and re-noticed for hearing June 19, 2009, by which motion plaintiff seeks an order allowing it to serve defendants Danfoss A/S, Appliance Components Companies S.p.A., Whirlpool S.A., Tecumseh do Brasil, Ltda., and Panasonic Corporation (collectively, "Foreign Defendants") by service on said defendants' domestic counsel. On May 29, 2009, the Foreign Defendants filed a joint opposition, to which plaintiff has replied.¹ Having read and considered the papers filed in support of and in opposition to the motion, the Court deems the matter suitable for decision on the parties' respective submissions, VACATES the hearing scheduled for June 19, 2009, and rules as follows.

¹In its Reply, plaintiff alternatively argues the Court should find the Foreign Defendants have, by opposing the instant motion, voluntarily appeared herein.

1 In their opposition, the Foreign Defendants request, inter alia, the Court defer ruling
 2 on the motion in light of proceedings currently pending before the Judicial Panel on
 3 Multidistrict Litigation ("JPML"). Although plaintiff objects to such deferral, the parties agree
 4 the JPML is likely to transfer the instant action to another district in the very near future.
 5 (See Foreign Defs.' Opp., filed May 29, 2009, at 2:20 - 3:4; Pl.'s Reply, filed June 5, 2009,
 6 at 4:3-5.)

7 Under such circumstances, the Court finds it appropriate to exercise its discretion to
 8 defer ruling on the instant motion until such time as the JPML panel has determined
 9 whether the instant action is to be transferred to another district.² See, e.g., Conroy v.
 10 Fresh Del Monte Produce Inc., 325 F. Supp. 2d 1049, 1053 (N.D. Cal. 2004) ("Often,
 11 deference to the MDL court for resolution of a motion [] provides the opportunity for the
 12 uniformity, consistency, and predictability in litigation that underlies the MDL system.")

13 Accordingly, ruling on the instant motion is hereby DEFERRED, pending resolution
 14 of the question of transfer and shall be renoticed in this district only if the JPML declines to
 15 transfer the above-titled action.

16 **IT IS SO ORDERED.**

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 18 Dated: June 11, 2009

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 MAXINE M. CHESNEY
 United States District Judge

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 28 ²In light of such finding, the Court hereby DENIES as moot the Foreign Defendants'
 administrative motion to continue the hearing on plaintiff's motion from June 19, 2009 to
 July 10, 2009.